

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL J. WHITNEY,	:	
	:	Case No. 4:06-CV-1890
Plaintiff	:	
	:	
v.	:	(Judge McClure)
	:	
MICHAEL J. ASTRUE,	:	
Commissioner of Social Security,	:	
	:	
Defendant.	:	

**ORDER**

May 24, 2007

**BACKGROUND:**

The plaintiff has brought this civil action pursuant to 42 U.S.C. § 405(g) to obtain judicial review of the Commissioner of Social Security's decision denying the plaintiff's claim for Social Security disability insurance benefits.

The case was initially referred to United States Magistrate Judge J. Andrew Smyser.

On May 2, 2007, Magistrate Judge Smyser filed his report and recommendation, and recommended that the matter be remanded to the Commissioner for reconsideration of, in particular, whether the plaintiff has a severe mental impairment. In correspondence to the court filed May 18, 2007, the

defendant waived the opportunity to respond to the magistrate judge's report and recommendation. Plaintiff, of course, has filed no objections.

The magistrate judge determined that the administrative law judge failed to fully consider the evidence with respect to whether plaintiff suffers from a severe mental impairment. We agree with the magistrate judge's reasoning and recommendation that the matter be remanded.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. United States Magistrate Judge J. Andrew Smyser's report and recommendation is adopted in full. (Doc. Rec. No. 15.)
2. The case is remanded to the Commissioner of Social Security for further proceedings and consideration consistent with the magistrate judge's report and recommendation.
3. The clerk is directed to close the case file.

s/ James F. McClure, Jr.  
James F. McClure, Jr.  
United States District Judge